

Question 3 (Replaces MEE Question 3 – Use MEE #3 Answer Booklet)
February 2003 Bar Examination
Family Law

Rachel and Paul were married in 1990 and had one child, Chris. They divorced in 2000 and the court granted joint legal and physical custody to both parents. The decree specified that Chris spend one week with Rachel and then the next week with Paul throughout the school year and in the summers Chris spend alternating 2-week periods with each parent. Rachel's parents, Grandma Mary and Grandpa Perry have been involved with Chris' life since Chris' birth. Grandma Mary and Grandpa Perry often babysat Chris and attended all of Chris' ball games. Recently, Paul became engaged to Wendy who lives in Washington state. Wendy's job prohibits her from moving to Missouri. Paul's job allows him to move freely to Washington or to stay in Missouri.

Paul has filed a motion to modify the decree and requests permission to relocate with Chris to Washington. In his motion to modify, he requests that the court award him sole legal and physical custody of Chris. He states in his motion to modify that he feels that Chris will have more educational and cultural opportunities in Washington and since Wendy has a lucrative job, Chris will enjoy a higher standard of living if Paul is allowed to move with Chris to Washington. Rachel is opposed to the proposed move and change of custody. She files an answer to the motion and requests that Paul's motion be denied. She wants things to remain as they have been.

Grandma Mary and Grandpa Perry are opposed to the move and they file a motion to intervene and request for specific visitation rights. Paul and Rachel both are upset at the request of Grandma Mary and Grandpa Perry and they cut off all access by the grandparents to Chris. Both Rachel and Paul feel that Grandma Mary and Grandpa Perry have no standing to request grandparent visitation as this is a private matter between Paul and Rachel involving the raising of their child. The trial court grants the motion to intervene. Six months later all matters come before the court for hearing.

1. What factors will the court consider in determining whether to grant Paul's motion to modify legal and physical custody?

2. What factors will the court consider in determining whether to allow Paul to relocate to Washington state with Chris?
3. What factors will the court consider in determining whether to grant Grandma Mary's and Grandpa Perry's motion for specific visitation?
4. What constitutional arguments can Paul or Rachel advance asserting that Missouri's grandparent visitation statute is unconstitutional and will they be successful? Why or why not?